

REMARKS

Applicant requests reconsideration of the finality of the Action of May 23, 2007.

The Action of May 23, 2007 presents new grounds of rejection, namely a rejection based on section 101. The only amendment made in the prior action was the addition of the word “conditioning” to modify “coefficient” in both independent claims. Applicant submits that the change from “identifying a coefficient” to “identifying a conditioning coefficient” is not one that would have necessitated a rejection under section 101.

In response to the first Office Action, Applicant pointed out that the rejections of the dependent claims were incomplete because the Examiner failed to identify with particularity those portions of the reference that allegedly disclosed the additional claim limitations.

The Examiner dismissed Applicant's remark in the Final Action by pointing out that “it is the Applicant's responsibility to read the prior art in its entirety.”

Applicant has already read the cited reference in its entirety. Despite this, Applicant is unable to identify anything that the Examiner might reasonably have regarded as corresponding to the additional limitations of the dependent claims.

It is the Examiner's duty to follow the rules promulgated by the Office. In particular, the Examiner must follow 37 CFR 1.104(c)(2), which states that

“[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”

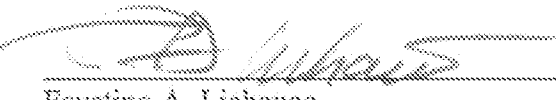
Applicant submits that the Action of September 26, 2006 fails to comply with Rule 1.104(c)(2) and that as a result, Applicant has not had a fair opportunity to address the rejections of the dependent claims.

Applicant requests that the Examiner identify with particularity those portions of the cited reference that are believed to teach the additional claim limitations. This will enable the prosecution of this application to proceed more efficiently.

No fees are believed to be due in connection with the filing of this response. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing Attorney Docket No. 12587-010001.

Respectfully submitted,

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